

Senate Bill No. 1260

CHAPTER 152

An act to amend Sections 31492 and 31492.1 of, and to add Section 31760.5 to, the Government Code, relating to county employees' retirement.

[Approved by Governor July 15, 2004. Filed with
Secretary of State July 16, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1260, Murray. County employees' retirement: survivor allowance.

The County Employees Retirement Law of 1937 generally provides that, upon the death of a retired member of a county retirement system, the member's surviving spouse or children receive a survivor allowance equal to 60 or 65% of the retired member's retirement allowance unless, at the time of retirement, the member elected to have the actuarial equivalent of his or her retirement allowance applied to a lesser retirement allowance in accordance with one of 4 specified optional settlements. Upon the death of a retired member of Retirement Plan E in Los Angeles County, the member's surviving spouse or children receive a survivor allowance equal to 55% of the retired member's retirement allowance unless, at the time of retirement, the member elected to have the actuarial equivalent of his or her retirement allowance applied to a reduced retirement allowance and an increased survivor allowance payable to his or her designated beneficiary.

This bill would, if approved by the county board of supervisors, authorize a member of the retirement system in Los Angeles County, or a member of Retirement Plan E in Los Angeles County, to elect at the time of retirement to have the actuarial equivalent of his or her retirement allowance and the survivor allowance applied to a reduced retirement allowance and an increased survivor allowance payable to the retired member's surviving spouse and children, as specified. The bill would also provide that if a retired member of Retirement Plan E in Los Angeles County has no surviving spouse or minor children at the time of his or her death, and if his or her accumulated normal contributions, if any, exceed his or her total retirement allowance income, the retired member's beneficiary shall be paid that excess income.

The people of the State of California do enact as follows:

SECTION 1. Section 31492 of the Government Code is amended to read:

31492. (a) (1) Upon the death of a retired member, 50 percent of the retirement pension, if not modified in accordance with the optional survivor allowance in subdivision (c) or (d), shall be continued during and throughout the life of his or her surviving spouse, if she or he was married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or if he or she dies before every child of the deceased retired member, including every stepchild or adopted child, attains the age of 18 years, then the allowance that the spouse would have received had she or he survived shall be paid to the deceased retired member's child or children under the age of 18 years. If the survivor allowance is to be paid to surviving children, it shall be divided among the children in equal shares. However, the right of any child to share in the allowance shall cease upon his or her death, marriage, or attaining the age of 18 years.

(2) Notwithstanding any other provisions of this subdivision, the allowance otherwise payable to the children of the retired member shall be paid to the children through the age of 21 years, if the children remain unmarried and are regularly enrolled as full-time students in any accredited school as determined by the board.

(b) If, upon the death of a retired member, there is no surviving spouse or child entitled to the allowance under this section, and the total retirement allowance income received by the member during his or her lifetime did not equal or exceed his or her accumulated normal contributions, if any, the member's designated beneficiary shall be paid an amount equal to the excess of his or her accumulated normal contributions over his or her total retirement allowance income.

(c) (1) A vested member, or vested former member, in lieu of the retirement allowance and survivor allowance, if any, otherwise payable to a retired member and his or her surviving spouse pursuant to this article, may elect to have the actuarial equivalent of these benefits, as of the date of retirement, applied to a lesser amount payable throughout the retired member's life and to an increased survivor allowance as approved by the board, upon the advice of the actuary, continued throughout the life of and paid to his or her surviving spouse, if he or she was married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or if he or she dies before every child of the deceased retired member, including every stepchild and adopted child, attains the age of 18 years, then the increased survivor allowance that the spouse would have received had

he or she survived shall be paid to the deceased retired member's child or children under the age of 18 years. If the increased survivor allowance is to be paid to surviving children, it shall be divided among the children in equal shares. However, the right of any child to share in the allowance shall cease upon his or her death, marriage, or attaining the age of 18 years.

(2) Notwithstanding any other provision of this subdivision, the increased allowance otherwise payable to the children of the retired member shall be paid to the children through the age of 21 years if the children remain unmarried and are regularly enrolled as full-time students in any accredited school as determined by the board.

(3) The election pursuant to this subdivision may not, in the opinion of the board and the actuary, place any additional burden upon the retirement system. If a member makes the election, the member's normal or early retirement benefit shall be reduced by the additional actuarial cost to the system resulting from the increased survivor allowance. The actuarial cost of the survivor allowance payable under this subdivision shall be calculated taking into account the life expectancy of the member's surviving spouse.

(4) This subdivision is not operative unless the county board of supervisors, by resolution adopted by a majority vote, makes this subdivision operative in the county. This subdivision applies only to members who retire after the operative date of this subdivision.

(d) A vested member, or vested former member, in lieu of the normal or early retirement pension for the retired member's life alone and the survivor allowance, if any, that would be payable under subdivision (a) or (c), may elect to have the actuarial equivalent of the retired member's pension as of the date of retirement applied to a lesser amount payable throughout the retired member's life, and to a survivor allowance as approved by the board, upon the advice of the actuary, that, upon the death of the retired member, shall continue throughout the life of and be paid to the person or persons having an insurable interest in the life of the retired member, as the member or former member nominates by written designation duly executed and filed with the board at the time of retirement. The member's normal or early retirement benefit shall be reduced by the actuarial cost of the survivor allowance elected.

SEC. 2. Section 31492.1 of the Government Code is amended to read:

31492.1. (a) Notwithstanding Section 31492, each monthly survivor allowance paid pursuant to subdivision (a) of Section 31492 on account of a member who retires on or after the operative date of this section shall be equal to 55 percent of the retirement pension, if not



modified in accordance with the optional survivor allowance in subdivision (b) or (c) of that section.

(b) This section is only applicable to Los Angeles County and is not operative until the board of supervisors of that county elects, by resolution adopted by a majority vote, to make this section operative in the county.

SEC. 3. Section 31760.5 is added to the Government Code, to read:

31760.5. (a) Notwithstanding Section 31760 and in lieu of the retirement allowance and the continuing or survivor allowance, if any, otherwise payable to a retired member and his or her surviving spouse pursuant to this article, a member may elect in writing to have the actuarial equivalent of these benefits, as of the date of retirement, applied to a lesser amount payable throughout the retired member's life, and to an increased survivor allowance as approved by the board, upon the advice of the actuary, that, upon the death of the retired member, shall be continued throughout the life of and paid to his or her surviving spouse. To qualify for benefits under this section, the surviving spouse must be married to the member at least one year prior to the date of retirement. If there is no surviving spouse entitled to this allowance, or if the surviving spouse dies before every child of the deceased retired member, including every stepchild and adopted child, attains the age of 18 years, then the increased survivor allowance that the spouse would have received had he or she survived shall be paid to the deceased retired member's child or children under the age of 18 years. If the increased survivor allowance is to be paid to surviving children, it shall be divided among the children in equal shares. However, the right of any child to share in the allowance shall cease upon his or her death, marriage, or attaining the age of 18 years.

(b) Notwithstanding any other provisions of this section, the allowance otherwise payable to the children of the deceased retired member shall be paid through the age of 21 years if the children remain unmarried and are regularly enrolled as full-time students in any accredited school as determined by the board.

(c) The election under this section may not, in the opinion of the board and the actuary, place any additional burden upon the retirement system. If a member elects to be subject to this section, the retirement allowance that would otherwise be payable to the member shall be reduced by the additional cost to the system resulting from the increased survivor allowance. The actuarial cost of the survivor allowance payable under this section shall be calculated taking into account the life expectancy of the member's surviving spouse.

(d) This section is only applicable to Los Angeles County and is not operative unless and until the board of supervisors of the county elects,



by resolution adopted by a majority vote, to make this section operative in the county. This section applies only to those members who retire after the operative date of this section.

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